

REMARKS AND ARGUMENTS

Claims 1-9 are pending in the present application, of which claim 1 is the sole independent claim. There are no changes to the claims presented in the previous response.

Claims 1-9 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite with regard to the term "iron-based powder." The Office Action asserts that this "is a relative term which renders the claim indefinite." Applicants respectfully traverse this rejection.

Relative terms do not automatically render a claim indefinite. "Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification." M.P.E.P. § 2173.05(b)(1). The term "iron-based powder" is known in the field of metal sintering; for example, U.S. Pat. No. 5,484,469 (Method of Making a Sintered Metal Component and Metal Powder Compositions Therefor) defines it as "any of the iron-containing particles generally used in the practice of powder metallurgy including, but not limited to, particles of substantially pure iron; particles of iron in admixture with, for example, particles of alloying elements such as transition metals and/or other fortifying elements; and particles of pre-alloyed iron." Therefore, one of ordinary skill in the art would understand the meaning of this term. Moreover, the present specification makes reference specifically to the '469 patent in connection with this term (see p. 3, lines 5-7) and accordingly, "one of ordinary skill in the art would understand what is claimed, in light of the specification."

Claims 1-9 were provisionally rejected over claims 1-10 of Application No. 10/811,008 ('008 application). To date, the '008 application has not been issued as a patent, and thus the rejection still is provisional. Applicants acknowledge this rejection, but will not respond at this time, as the rejection is provisional.

Claims 1-9 were rejected under 35 U.S.C. § 102(e) as anticipated by Hanejko. Applicants respectfully traverse this rejection because Hanejko fails to disclose or suggest a key limitation of the present claims, namely that the molar ratio of dicarboxylic acid to diamine is from 0.97 to 1.06. Accordingly, Hanejko cannot anticipate the present invention, and the rejection should be withdrawn.

Moreover, Hanejko, in its primary embodiment, teaches a polyamide made from three components: (i) a dicarboxylic acid, (ii) a diamine, and (iii) a monocarboxylic acid. Due to the presence of the monocarboxylic acid, the three-component mixture of Hanejko necessarily produces a different polyamide than the "reaction product of a C<sub>6</sub>-C<sub>12</sub> dicarboxylic acid and a diamine," the two-component mixture recited in the present claims. The monocarboxylic acid would react with free amino groups on the starting diamine and/or on amine-terminated polymer

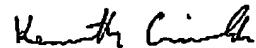
chains, thereby capping the amines and producing a product with different functionality and lower molecular weight. Therefore, the reaction mixture disclosed in Hanejko's primary embodiment, which contains a minimum of 10% monocarboxylic acid could not produce the reaction product employed in Applicants' claimed method.

Hanejko's alternative embodiment (Col. 4, lines 21 ff.) discloses a polyamide made from a C<sub>4</sub>-C<sub>12</sub> diamine (value of m, lines 35-36). Claims 2-5 and 7-9 of the present application are limited to use of polyamides made from C<sub>2</sub>-C<sub>8</sub> diamines, and claim 4 is further limited to a C<sub>2</sub> diamine, i.e., ethylene diamine. Accordingly, Hanejko's alternative embodiment cannot produce the reaction product employed in claims 2-5 and 7-9, and as Applicants have argued above, neither embodiment teaches the mole ratio limitation of all the present claims.

Applicants believe that the claims are allowable in their present form. However, if the Examiner is not persuaded that the application should be allowed, Applicants respectfully request that the finality of the present Office Action be withdrawn. A second Office Action should not be final "where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted [under 37 CFR 1.97(c)]." M.P.E.P. § 706.07(a)(2). The rejection over Hanejko, first cited by the Examiner in the second Office Action, could have been made in the first Office Action against the original claims, which recited a polyamide reaction product. The limitations relating to the polyamide reaction product were not altered by Applicants' amendment. Although Applicants have argued above that these limitations are not disclosed or suggested by Hanejko, if they were, then Hanejko could have been applied to the original claims. Therefore, the rejection was not necessitated by the amendment.

If the Examiner has any concerns regarding the application, Applicants respectfully request that the Examiner contact Applicants' undersigned attorney by telephone to discuss the issues.

Respectfully submitted,



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